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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,550	01/25/2002	Richard E. Michaelson	112300-4548	8841
29159 7590 07/25/2008 BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690				
EXAMINER YOO, JASSON H				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 07/25/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary

Application No.

10/056,550

Applicant(s)

MICHAELSON, RICHARD E.

Examiner

Jasson H. Yoo

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-44, 46, 47, 51-53, 55 and 56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-44, 46-47, 51-53, 55-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/27/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/08 has been entered.

Claim Objections

Claims 55-56 are objected to because of the following informalities: Claims 55-56 have been amended to be dependent on claim 54. However, claim 54 is has been cancelled. It will be assumed that claims 55-56 are dependent on claim 51. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-44, 46-47, 51-53, 55-56 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walker et al. (US 6,077,163).

Claim 42. Walker discloses a method and a gaming system for playing on the gaming system using flat rates for a period of time discussed in the prior Office Actions (Office Actions dated, 2/27/08, 5/25/07) The claim has been amended to specify that the fees are deducted at a plurality of intervals. Multiple interpretations can be made using Walker to disclose these limitations. In one interpretation, the fees are considered to be the fees associated to the time interval the player selects (722 in Fig. 2B). The player can select the same game with the same game parameters using the same wager fee (col. 7:39-54). Thus, these fees are deducted for each of the same time intervals. The player can continue to play during these time intervals using the same fee (by selecting the same game parameters), as long as the player has enough balance of the value total to pay for these fees. More specifically Walker discloses: a method of operating a gaming system, said method comprising:

(a) receiving a value total associated with a player (value total is the amount of coin inserted in the gaming machine, or the electronic credit associated to the player's account, cols. 4:6-10, 6:5-6, 14:55-65), said value total being divisible into a plurality of fees (722 in Fig. 2B, 724 in Fig. 7);

(b) operating at least one play of at least one game for a period of time, the period of time being divisible into a plurality of time intervals [If the player plays for a

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plurality of time intervals the total time total time period is inherently divisible into a plurality of time intervals. If the player elects 30 minutes intervals for \$15 (see Fig. 7), and plays for one hour, the total time period of one hour is divisible by the time interval of 30 minutes];

(c) tracking how many of the time intervals pass during the at least one play of the game (Gaming machine inherently track each time the time intervals pass when receiving the fee);

(d) deducting one of the fees from the value total for each one of the time intervals which passes, the deduction being independent of any game outcome (Fee 514 for the time interval 516 in fig. 5);

(e) tracking a balance of the value total (cols. 4:6-10, 6:5-6, 14:55-65);

(f) as long as the balance remains above a level, continuing steps (c), (d) and (e) until a termination even occurs (As long as the player has enough money in the player's account, cols. 4:6-10, 6:5-6, 14:55-65);

(g) after the termination event occurs, determining whether any payout is due to the player based on at least one of the deducted fees; and (h) providing the determined payout, if any, to the player (This is interpreted as a payout is made based on the last deducted fee during the last flat rate play session, Fig. 13.).

As discussed above, Walker discloses the claimed invention when interpreting Walker's duration of flat rate play session (722 in Fig. 7 and 2B) as the claimed "time intervals". Another interpretation of Walker is made by interpreting Walker's duration of

flat rate play session (722 in Fig. 7 and 2B) as a total time played using the value total. More specifically, Walker discloses a method of operating a gaming system where the player plays a flat rate play session for a flat rate price (see abstract). The player can select different flat rate play sessions based on the game parameters (col. 7:39-54). The flat rate price is interpreted as the value total, and the flat rate play session is interpreted as the period of time in which the gaming system operates. After the wager is made, the CPU generates a random number and identifies a corresponding outcome (col. 4:17). Based on identified outcome, an outcome display is provided, and the appropriate payout is made (col. 4:15-26). Fig. 13 illustrates the method in which the game system provides a payout. A flat rate database (246) and a casino player database (344) tracks and audit the flat rate play session (Figs. 4-5). When a player stops the game session in the middle of the flat rate play session, the value remaining (430) is calculated and the interval remaining (516) is calculated to allow the player continue the flat rate play session (cols. 6:36-38, 12:31-60, 13:13-50). Walker significantly discloses the claimed invention but fails to specifically teach the value total is divisible into a plurality of fees, the period of time is divisible into a plurality of time intervals, deducting one of the fees from the value total for each one of the time interval until the balance remains above a level and until a termination event occurs. Nevertheless, such limitations are implied or would have been obvious to one of ordinary skilled in the art. As discussed above, Walker discloses the value remaining (430) is calculated and the interval remaining (516) is calculated to allow the player continue the flat rate play session (cols. 6:36-38, 12:31-60, 13:13-50). Thus it is implied

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or would or would have been obvious to have fees deducted in intervals in order to calculate the value remaining and the interval remaining. Having the total value being divisible into a plurality of fees and the period of time being devising into a plurality of time intervals will provide a specific fee or a specific time interval. This will allow the remaining value and the remaining time interval to be evenly calculated. Furthermore, this will allow players to play intervals of the flat rate session. Playing at intervals of the flat rate session will allow the player to play a flat rate gaming session for a smaller fee for a smaller amount of playing time. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker's method of playing a flat rate playing session in order to evenly calculate the remaining value and the remaining time interval, and allow a player to play a flat rate gaming session for a smaller fee for a smaller amount of playing time.

Claims 43, 52. For each time interval the fees deducted from the value total are equal (If the player selects the same game with the same game parameters, then the wager fee will be the same. Furthermore, see rejection for claim 42 above.).

Claims 44, 53. Each time interval is an equal interval of time (Player can select the same game parameters including the same time interval, col. 5:22-33, Fig. 2B. Furthermore, see rejection for claim 42 above.).

Claims 46, 55. Determining and displaying at least one payout associated with at least one displayed outcome for at least one play of the game if the value total is greater than zero after the plurality of time intervals, wherein said determined payout is based on any deducted fees (Player can select price parameters based on the game parameters, col. 7:39-54. The game parameters may be amount wagered per play, and active pay lines. The determined value payout, is based on the pay-table, which is based on wager/deducted fees. After a wager is made, the CPU generates a random number and identifies a corresponding outcome, col. 4:17. Based on identified outcome, an outcome display is provided, and the appropriate payout is made, col. 4:15-26.).

Claims 47, 56. Stopping the deducting step at least temporarily during the play (A fee is required for a gaming session. After the gaming session is over, the player can momentarily stop playing by not providing the fee to start the next gaming session).

Claim 51. See rejection for claim 42 above. Furthermore, Walker discloses a gaming system comprising: at least one display device; at least one input device; at least one processor (Figs. 2A-2B); and

at least one memory device which stores a plurality of instructions (cols. 3:67-4:5), which stores a plurality of instructions, which when executed by the at least one processor.

Response to Arguments

Applicant's arguments with respect to claims 42-44, 46-47, 51-53, 55-5 have been considered but are moot in view of the new ground(s) of rejection. A new ground of rejection has been made using Walker et al. (US 6,077,163).

Furthermore, the prior Office Action discusses that Walker discloses a fee deduction based on time and the length of time as a whole. The fee is credited if the whole length of time is not used up. Regardless of the change in number of increments or the change in length of increments, the end result or the length in time as a whole is still the same. For example, Walker discloses a fee of \$25 for half an hour of play (col. 3:28-20). The half an hour of play for \$25 is equivalent to buying six 5-minute block of a flat rate playing time totaling the fee of \$25. The prior Office action indicated that Applicant has not provided any arguments why such modification is beneficial or patentably distinguishable. Thus Applicant's claimed invention is equivalent to Walker. Applicant responds by arguing that during Walker's play session, the player is not required to deposit any coins. If the player elects to pay a flat rate price in Walker, the player pays to play once for the pre-established duration. However, Applicant's claimed invention does not require the player to deposit coins. The claimed invention discloses a method of receiving a value total associated with a player. The claim does not indicate that the player provides multiple fees. The claim is interpreted as the player providing a one time fee (limitation a). This fee is further divided and incrementally deducted (limitation d and the repetition of limitation d as indicated in limitation f). Similarly, in the rejection using the second interpretation of Walker, Walker discloses

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the method of receiving a value total (fee for the flat rate price). When a player stops a game session in the middle of the flat rate play session, the value remaining (430) is calculated to allow the player continue the flat rate play session. Thus, the fee is not deducted at once. It appears that Applicant is arguing that the differences in Applicant's claimed invention and Walker is when the fee is actually deducted. However, this argument does not provide reasons why Applicant's claimed invention is beneficial or patentably distinguishable over Walker. The argument of when the fees are deducted is a reiteration of the argument the Examiner has made in the prior Office Actions. Half an hour of play for \$25 is equivalent to buying six 5-minute block of a flat rate playing time totaling the fee of \$25. The only difference is when the deduction is made. Furthermore, as discussed in the rejection above, it would have been obvious to modify Walker and incorporate the limitations of the value total is divisible into a plurality of fees, the period of time is divisible into a plurality of time intervals, deducting one of the fees from the value total for each one of the time interval until the balance remains above a level and until a termination event occurs. The fee per interval will allow a player to play a flat rate gaming session for a smaller fee for a smaller amount of playing time.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00am.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

JHY